Thoughts on Public-Law Restrictions in Austria

EuroGeographics Workshop - “Documentation of Public-Law Restrictions”

Brussels, 11-12 November 2015
Cadastre and Land Register

**Cadastre**
Proof of location, plot size, land cover ... of parcels based on surveying documents, cadastral map, parcel register ...

Authority: **Cadastral office**

**Land register**
Proof of the legal situation of parcels: ownership, easements, mortgages, rights and obligations ...

Authority: **District courts**
Ministry of Justice
land register

District court
140

Ministry of Finance
Bewertung

Tax offices
76

GDB neu

Provider
www

BEV Portal

Licensed surveyor
ca. 270

Ministry of Economy
Cadastre

BEV

Cadastral Offices
41

Noraty,
c.a. 400

The Cadastre in Austria

Julius Ernst
Cadastre: based on private law
Impact of public law
Status quo in Austria

• Cadastre and LR as main registers
• Public rights and restrictions (PRR) existing in different sources
• PRR only in land register (Grundbuch) and in zoning plans
  • Legally valid, but not “visible”
  • not documented in Cadastre
• Break of the principal of registration!
Examples: contaminated sites
Discussion

• Implementation only possible in a joint effort of Cadastre (BEV) and LR (BMJ)
• Good cooperation existing, but…
  • Missing legal framework
  • Lot of resources (personnel and budget) needed (from C + LR)
  • Huge amount of laws and regulations
  • Not possible (in a reasonable timeframe) to start retroactively > To Only forward looking approach makes sense
Possible way of implementation

• Analyse existing law and regulations
• Define criteria and conditions
• Importance of implementation, but step by step approach
  • Legal
  • Technical
  • Administrative challenges (different organizations)
• Look to best practice solutions (e.g. Swiss)
Options for implementations in AT

• Based on the model of Kaufmann und Steudler (1998) in „Cadastre 2014“
• Cadastre as platform
• Show public rights and restrictions (PRR) in the cadastre as a system of different layers
  • Spatial objects of PRR
• Implement as a public register
• Based on law
Purpose of PRR- cadastre

- Access to authentic /legal information for anyone
- Different sources of information
- Transparent system to be used by any person
- Principal of publicity: access to information to be used
Abbildung 5-11: Schema der zentralen Datenverwaltung.
Summary

• Implementation of PRR- Cadastre would be important/necessary and possible- but complex
• Joint efforts of BEV and BMJ (Ministry of Justice)
• a complete registration of all PRR is questionable
• there is a need and right to comprehensive information for the public (transparency!)
• huge benefit seen for real estate business and all users
Thank you for your attention!

julius.ernst@bev.gv.at